

1 The opinion in support of the decision being entered today was *not* written
2 for publication in and is *not* binding precedent of the Board.

3
4 UNITED STATES PATENT AND TRADEMARK OFFICE

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6
7 BEFORE THE BOARD OF PATENT APPEALS
8 AND INTERFERENCES

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11 *Ex parte* DAVID A. GASPER and MEL WALTER

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14 Appeal 2007-0895
15 Application 09/651,983
16 Technology Center 3600

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19 Decided: May 16, 2007

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22 Before MURRIEL E. CRAWFORD, LINDA E. HORNER and
23 ANTON W. FETTING, *Administrative Patent Judges*.
24 FETTING, *Administrative Patent Judge*.

25 DECISION ON APPEAL

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28 STATEMENT OF CASE

29 This appeal involves claims 1-11, the only claims pending in this application.
30 We have jurisdiction over the appeal pursuant to 35 U.S.C. §§ 6 and 134.

31
32 We AFFIRM-IN-PART.

The Appellants invented a system for replenishing the currency supplies within Automated Teller Machines (ATMs), and which (1) does not require the service teams which perform the replenishment to actively report either the amounts of replenishment, or the fact that replenishment occurred, and (2) uses the ATMs to track the performance of the service teams (Specification 1). An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. In connection with operation of a system of ATMs, each of which contains at least one computer, a method comprising the following steps:

- a) identifying low-stocked ATMs, which require replenishment of currency;
- b) causing replenishment of currency in low-stocked ATMs to occur;
- c) receiving replenishment signals from the replenished ATMs; and
- d) using the replenishment signals, and without using communications from parties performing the replenishment, preparing one, or more, reports concerning the ATMs replenished.

This appeal arises from the Examiner's Final Rejection, mailed August 1, 2005. The Appellants filed an Appeal Brief in support of the appeal on January 12, 2006, and the Examiner mailed an Examiner's Answer to the Appeal Brief on June 16, 2006. A Reply Brief was filed on August 21, 2006.

PRIOR ART

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Ross US 5,945,602 Aug. 31, 1999

Clark US 6,378,770 B1 Apr. 30, 2002
(Apr. 20, 1998)

REJECTIONS

Claims 1-3 and 10 stand rejected under 35 U.S.C. § 102(e) as anticipated by Clark.

Claims 4, 8, and 11 stands rejected under 35 U.S.C. § 103(a) as obvious over Clark.

Claims 5, 6, 7, and 9 stands rejected under 35 U.S.C. § 103(a) as obvious over Ross and Clark.

ISSUES

The issues pertinent to this appeal are

- Whether the rejection of claims 1-3 and 10 under 35 U.S.C. § 102(e) as anticipated by Clark is proper.
 - Whether the art applied shows using the replenishment signals, and without using communications from parties performing the replenishment, preparing one, or more, reports concerning the ATMs replenished (Claims 1-3 and 10; Br. 12-22)
- Whether the rejection of claims 4, 8, and 11 rejected under 35 U.S.C. § 103(a) as obvious over Clark is proper.
 - Whether the art applied shows or suggests generating a list of ATMs scheduled to be replenished and the amounts to be replenished in each, receiving signals from the ATMs as each is entered, and preparing a report based on the signals after replenishment indicating

1 the what was scheduled and what was performed (Claims 8 and 11,
2 Br. 32-38).

- 3 • Whether the rejection of claims 5, 6, 7, and 9 rejected under 35 U.S.C.
4 § 103(a) as obvious over Ross and Clark is proper.

- 5 ○ Whether the art applied shows or suggests designating ATMs as
6 having been replenished based on designating a scheduled time for
7 replenishing a particular group of ATMs and the concurrent actions of
8 detecting entry into an ATM, sensing that the entered ATM is a
9 member of the designated group, and sensing that entry occurred
10 within the schedule time (Claim 5; Br. 38-46).

- 11 ○ Whether the art applied shows or suggests adjusting the estimate of an
12 ATM's contents based on scheduling replenishment of a particular
13 subset of ATMs and the concurrent actions of detecting entry into an
14 ATM, and sensing that the entered ATM is a member of the
15 designated subset, and if entry occurs for an ATM not in the
16 designated subset, contacting a law enforcement agency (Claim 6; Br.
17 25-31).

18 In particular, the Appellants contend that Clark requires a technician to enter
19 information (Claim 1; Br. 13); that Clark does not show preparing a report
20 including the claimed data (Claim 8; Br. 35-37); that the art applied fails to show
21 designation of a group of ATMs or scheduled times of replenishment (Claim 5; Br.
22 40) and the security feature resulting from detecting entry of an ATM not so
23 designated (Claim 6; Br. 28-30).

FACTS PERTINENT TO THE ISSUES

The following Findings of Fact (FF), supported by a preponderance of evidence, are pertinent to the above issues.

01. Clark describes an ATM that, on completion of a PURGE sequence, the operator is requested to input data concerning the full cassettes 40 to be inserted in the ATM, including a cassette identification code and the amount and denomination of the currency notes contained in the cassette before access to the cassette compartments 42 of the ATM is allowed. This data is input by the operator via the key pad 27 of the operator panel 26 in step 136 and is stored in the memory 34 of the ATM 10. The balance of notes in each cassette 40 can therefore be updated during subsequent transactions involving dispensing of notes from that particular cassette 40. An updated ATM STATUS REPORT based on the input data is sent to the host computer in step 138. (Clark, col. 6, ll. 40-53).
02. Thus, Clark's report is based on the input data that is sent by the operator.
03. The Examiner contends that the operator does not prepare the report (Answer 14).
04. However, claim 1 requires that the report is prepared without using data from the operator.
05. Thus, Clark does not show using the replenishment signals, and without using communications from parties performing the replenishment, preparing one, or more, reports concerning the ATMs replenished.

1 06. Clark shows that the operator signals entry into the ATM and the amount
2 that is entered into the ATM (FF 01).

3 07. ATMs owned by banks are owned by business entities that are subject to
4 rigorous auditable accounting controls, which include preparing plans
5 (i.e. lists) of how and when operations are maintained and the results of
6 such maintenance.

7 08. Thus, a person of ordinary skill in the art of ATM maintenance would
8 have immediately envisaged generating a list of ATMs to be replenished
9 and the amounts to be replenished in each, receiving signals from the
10 ATMs as each is entered, and preparing a report after replenishment
11 indicating what replenishment was scheduled and what was actually
12 performed.

13 09. Clark describes servicing a single ATM and describes the operator
14 indicating the amount replenished (FF 01).

15 10. Ross does not describe ATM replenishment.

16 11. Thus, the combination of Ross and Clark does not show or suggest
17 designating a group of ATMs and indicating replenishment from an
18 entry signal.

19 12. The Examiner contends that scheduling and designating is obvious
20 (Answer 22).

21 13. The Examiner contends that having scheduled designated ATMs for
22 replenishment, designating them as having been replenished would have
23 been obvious after the scheduled time frame (Answer 22).

1 14. Thus, the Examiner is making a conclusory argument of obviousness
2 instead of putting forth evidence to show how the further claimed
3 criterion of detecting entry within that time frame for a member of the
4 designated group is shown or suggested.

5 15. Thus, the Examiner has not shown that the combination of Ross and
6 Clark shows or suggests designating ATMs as having been replenished
7 based on designating a scheduled time for replenishing a particular
8 group of ATMs and the concurrent actions of detecting entry into an
9 ATM, sensing that the entered ATM is a member of the designated
10 group, and sensing that entry occurred within the schedule time.

11 16. Ross states that police are alerted to an ATM if an acoustic sensor
12 detects an abnormal signal (Ross, col. 8, ll. 24-27).

13 17. The Examiner contends that contacting a law enforcement agency is
14 proper because it is not appropriate to try to fight thieves (Answer 19).

15 18. However, the Examiner has not put forth evidence to show the claimed
16 criterion for contacting a law enforcement agency as the confluence of
17 scheduling replenishment of a particular subset of ATMs, the concurrent
18 actions of detecting entry into an ATM, and sensing that the entered
19 ATM is a member of the designated subset, and entry occurring for an
20 ATM not in the designated subset.

21 19. Thus, the Examiner has not shown that the combination of Clark and
22 Ross shows or suggests adjusting the estimate of an ATM's contents
23 based on scheduling replenishment of a particular subset of ATMs and
24 the concurrent actions of detecting entry into an ATM, and sensing that
25 the entered ATM is a member of the designated subset, and if entry

1 occurs for an ATM not in the designated subset, contacting a law
2 enforcement agency.

3 ANALYSIS

4 *Claims 1-3 and 10 rejected under 35 U.S.C. § 102(e) as anticipated by Clark.*

5 From the Findings of Fact, *supra*, we conclude that

- 6 • The art applied fails to show using the replenishment signals, and without
7 using communications from parties performing the replenishment, preparing
8 one, or more, reports concerning the ATMs replenished (FF 05) (Claims 1-3
9 and 10; Br. 12-22).

10 Accordingly we do not sustain the Examiner's rejection of claims 1-3 and 10
11 under 35 U.S.C. § 102(e) as anticipated by Clark.

12
13 *Claims 4, 8, and 11 rejected under 35 U.S.C. § 103(a) as obvious over Clark.*

14 From the Findings of Fact, *supra*, we conclude that

- 15 • The art applied shows or suggests generating a list of ATMs to be
16 replenished and the amounts to be replenished in each, receiving signals
17 from the ATMs as each is entered, and preparing a report after
18 replenishment indicating the what was scheduled and what was performed
19 (FF 08) (Claims 8 and 11, Br. 32-38).

20 The Appellants contend that there are not plural ATMs and that signals from a
21 single ATM cannot indicate the claimed information (Br. 35). As to whether plural
22 ATMs are replenished, a person of ordinary skill in the art would envision that
23 banks owning many ATMs would have to replenish all of them at some points in
24 time. As to whether the signals can indicate the claimed information, we note that

1 claim 8 uses the very broad phrase “based on the signals”, so that the claim
2 requires some basis for the information relying on the signals. Clark’s signals
3 actually convey the amount replenished thus establishing such a basis (FF 09).
4 Thus, the Appellants’ contentions do not show reversible error on the part of the
5 Examiner.

6 However, the art applied fails to show or suggest the subject matter not
7 found in claim 1, *supra*, and therefore fails to show or suggest the subject matter
8 of claim 4.

9 Accordingly we sustain the Examiner's rejection of claims 8 and 11, but we do
10 not sustain the rejection of claim 4, under 35 U.S.C. § 103(a) as obvious over
11 Clark.

12
13 *Claims 5, 6, 7, and 9 rejected under 35 U.S.C.*
14 *§ 103(a) as obvious over Ross and Clark.*
15

16 From the Findings of Fact, *supra*, we conclude that

- 17 • The art applied fails to show or suggest designating ATMs as having been
18 replenished based on designating a scheduled time for replenishing a
19 particular group of ATMs and the concurrent actions of detecting entry into
20 an ATM, sensing that the entered ATM is a member of the designated group,
21 and sensing that entry occurred within the schedule time (FF 15) (Claim 5;
22 Br. 38-46).
- 23 • The art applied fails to show or suggest adjusting the estimate of an ATM’s
24 contents based on scheduling replenishment of a particular subset of ATMs
25 and the concurrent actions of detecting entry into an ATM, and sensing that

1 the entered ATM is a member of the designated subset, and if entry occurs
2 for an ATM not in the designated subset, contacting a law enforcement
3 agency (FF 19) (Claim 6; Br. 25-31).

4 The art similarly fails to show or suggest the subject matter of claims 7 and 9
5 for the same reasons as their parent claim 6. Accordingly we do not sustain the
6 Examiner's rejection of claims 5, 6, 7, and 9 under 35 U.S.C. § 103(a) as obvious
7 over Ross and Clark.

8 DECISION

9 To summarize, our decision is as follows:

- 10 • The rejection of claims 1-3 and 10 under 35 U.S.C. § 102(e) as anticipated
11 by Clark is not sustained.
- 12 • The rejection of claims 8 and 11 under 35 U.S.C. § 103(a) as obvious over
13 Clark is sustained.
- 14 • The rejection of claim 4 under 35 U.S.C. § 103(a) as obvious over Clark is
15 not sustained.
- 16 • The rejection of claims 5, 6, 7, and 9 under 35 U.S.C. § 103(a) as obvious
17 over Ross and Clark is not sustained.

18 No time period for taking any subsequent action in connection with this appeal
19 may be extended under 37 CFR § 1.136(a).

20 AFFIRMED-IN-PART
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24 vsh

Appeal 2007-0895
Application 09/651,983

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